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Mary L. Miller
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Mary L. Miller

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Attorney Docket No. 9286.32

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Tsai et al.
Serial No.: 10/780,781
Filed: February 18, 2004
For: *Process for Preparing an Elastic Nonwoven Web*

Submittal of:

Cover page (1 page)
Response to Restriction Requirement (3 pages)
Total Pages: 4 pages

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Attorney Docket No. 9286-32

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Tsai et al.

Examiner: Elizabeth M. Cole

Application Serial No.: 10/780,781

Group Art Unit: 1771

Filing Date: February 18, 2004

Confirmation No. 2750

For: *Process for Preparing an Elastic Nonwoven Web*

Date: December 22, 2005

VIA FACSIMILE TRANSMISSION to 571-273-8300

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This is responsive to the November 28, 2005 Office Action issued for the above-referenced patent application.

RESTRICTION OF CLAIMS

In the Office Action, the pending claims 1-28 and 34-40 have been restricted as follows.

Group I: Claims 1-20 and 40, drawn to a method of making an elastic nonwoven web, classified in class 264, subclass various.

Group II: Claims 21-28 and 35-39, drawn to an elastic nonwoven web, classified in class 442, subclass 328.

Applicants provisionally elect Group II (claims 21-28 and 35-39) with traverse.

Applicants note that pending claim 34 is not included in either Group I or II are listed in the Office Action. As claim 34 is directed to a product and is dependent from claim 21, applicants will assume that the Examiner meant to include claim 34 in Group II and ask that the Examiner clarify this in the next Action.

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The traversal is on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. Specifically, it is stated in section 803 of the MPEP that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, AND 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

In particular, the examiner has not met the second criterion because there is no evidence provided that it would be a serious burden to examine the claims together. The MPEP states that "[f]or purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP 808.02."

Applicants believe that the Examiner has not met the requirements of a *prima facie* showing of why search and examination of all of the claims together would pose a serious burden. Thus, applicants respectfully request that this restriction into the four named groupings be reconsidered and withdrawn.

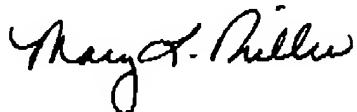
Furthermore, if the claims of Group II are found to be allowable, applicants request that the Examiner review the claims of Groups I according to the practice of rejoinder as set forth in section 821.04 of the MPEP. In particular, it is stated therein that if a product claim is elected in a restriction and then found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim are to be rejoined.

The Examiner is encouraged to contact the undersigned directly if such contact will expedite the search and examination of the pending claims and their allowance to issue.

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No fee is believed due with this response. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

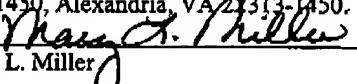


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**CERTIFICATION OF FACSIMILE TRANSMISSION
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